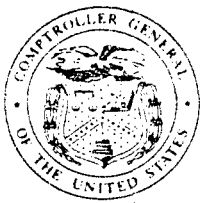


Mr. Melody

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DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-199976

DATE: November 19, 1980

MATTER OF: Military Services Inc., of Georgia

DIGEST:

[Protest Alleging

Failure of agency to synopsise procurement in Commerce Business Daily, which omission precluded protester from bidding, does not constitute compelling reason to cancel contract and resolicit since adequate competition was generated, price was not unreasonable, and there is no evidence that omission was result of deliberate attempt to preclude protester from competing.

Military Services, Inc. of Georgia (MSI) protests the award of a contract by the Naval Supply Center, Charleston, South Carolina (Navy), to any other firm under invitation for bids (IFB) No. N00612-80-B-0032. This invitation sought bids for mess attendant services at the Naval Air Station, Key West, Florida and was issued to all 58 firms on the Navy's list of prospective bidders on such contracts. Apparently, however, no synopsis of the procurement appeared in the Commerce Business Daily (CBD). Of the firms submitting bids, Military Base Management (MBM) was low at \$212,138.78 and award was made to that firm on August 11, 1980.

(MSI was not among the firms included on the bidder's list and now contends that it was improperly excluded from the competition by the Navy's failure to synopsise the procurement in the CBD as required by Defense Acquisition Regulation (DAR) § 1-1003.1 (1976 ed.). The protester requests that the contract with MBM be terminated for the convenience of the Government and that the Navy resolicit this requirement.

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It is well-established that unintentional actions of an agency which preclude a potential contractor from competing on a procurement do not in themselves constitute a compelling reason to cancel and resolicit a procurement where adequate competition was generated, reasonable prices were obtained, and no deliberate or conscious attempt was made to preclude any potential bidder from competing. See Check Mate Industries, Inc., B-194612, June 12, 1979, 79-1 CPD 413; Mid-America Food Service, Inc., B-194658, July 26, 1979, 79-2 CPD 56.

There is no indication that the Navy intended to exclude MSI from the procurement by failing to publish the requisite CBD notice. The Navy buyer reportedly drafted the procurement synopsis and forwarded it for final review and distribution. Navy procedures at this point provide that the synopsis be dispatched to the message center for electronic transmission to the CBD. While it appears that the message was placed in the appropriate channels, an investigation conducted by the Navy in response to this protest revealed that the synopsis was never published in the CBD, probably because it was never transmitted by the Navy. While no cause for this failure has yet been determined, the record does not indicate that it was intended to preclude MSI from bidding and, therefore, we must assume it was an inadvertence on the part of the Navy.

The requirement that there be adequate competition normally is satisfied where competitive bids are received. Mid-America Food Service, Inc., supra; Reliable Elevator Corp., B-191061, April 27, 1978, 78-1 CPD 330. Here, 58 potential sources were solicited, 12 of which submitted bids ranging from MBM's \$212,138.78 to \$462,367.32. MBM's low bid, furthermore,

was reportedly "slightly less than the incumbent contract amount without a reduction in the scope of services." This indicates that both adequate competition and a reasonable price were obtained and since there is no evidence that any firm was deliberately excluded from competition, we find no legal basis for disturbing the award to MBM.

The protest is denied.)

Harry R. Van Cleave
For The Comptroller General
of the United States